

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CLAUDIO AMAURIS NUNEZ POLANCO,

Plaintiff,

-against-

MICHAEL CAPRA, ET AL.,

Defendants.

22-CV-4925 (LTS)

ORDER OF DISMISSAL

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiff, who is currently incarcerated at Clinton Correctional Facility, brings this *pro se* action under 42 U.S.C. § 1983. He asserts claims that arose at Sing Sing Correctional Facility, between October 14, 2022, and April 20, 2022. For the following reasons, this complaint is dismissed without prejudice.

Plaintiff has previously submitted to this Court a substantially similar complaint that is pending under docket number 22-CV-4475. Both complaints name Defendants Michael Capra, Collins, Dela Rosa, Razia Ferdous, Guzman, Maison, Mitchell, Murtha, Pavel, Suarez, and both raise the same claims.¹ Because the complaints are substantially the same, no useful purpose would be served by the filing and litigation of this duplicate lawsuit. This complaint is therefore dismissed without prejudice to Plaintiff's case under docket number 22-CV-4475, which remains pending.

In light of the Court's belief that Plaintiff may have submitted this duplicate complaint in error, the Court directs the Clerk of Court not to charge Plaintiff the \$350.00 filing fee for this

¹ In this complaint, Plaintiff also names Physician's Assistant Martin, who was not listed as a defendant in Plaintiff's pending case under docket number 22-CV-4475. If Plaintiff wishes to change the parties or claims in his existing case, he can do so by filing an amended complaint in the pending action, to the extent permitted under Rule 15 of the Federal Rules of Civil Procedure.

action, and the Warden or Superintendent having custody of Plaintiff shall not deduct or encumber funds from Plaintiff's prison trust account for this lawsuit.

CONCLUSOIN

The Court dismisses Plaintiff's complaint as duplicative of his case under docket number 22-CV-4475. The Court directs the Clerk of Court not to charge Plaintiff the \$350.00 filing fee for this action.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith and therefore *in forma pauperis* status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

Dated: June 13, 2022
New York, New York

/s/ Laura Taylor Swain

LAURA TAYLOR SWAIN
Chief United States District Judge